IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Civil Revision No. 4196 of 2006

Date of Decision : 17th September, 2007

Amol Bhardwaj.

.... Petitioner

Versus

Neeti Bhardwaj.

... Respondent.

CORAM : HON'BLE MR. JUSTICE S.D. ANAND

Present : Mr. C.M. Makkar, Advocate,
for the petitioner.

Mr. O.P. Sharda, Advocate,
for the respondent.

S.D. Anand, J.

The grievance of the petitioner-husband is that the impugned order dated 11.05.2006 passed by the learned Additional District Judge, Chandigarh, awarding litigation expenses of Rs. 5,000/- and maintenance pendente-lite at the rate of Rs.10,000/- per month w.e.f. the date of filing of petition i.e. 15.02.2005, on a plea under Section 24 of the Hindu Marriage Act filed in the course of HMA Petition No.45 of 2006, is inappropriate and uncalled for inasmuch as the respondent-wife is proved to be in employment and earning a handsome salary as a B.D.S. (Bachelor in Dental Surgery) employee at two local clinics. It is also the averment that she is in employment in the PGI as a House Physician/Surgeon, vide appointment

letter dated 10.11.2003 (Annexure P-9).

The plea averred on behalf of the respondent-wife is that her employment, as a Junior Resident, at PGI has come to an end on or about 2004. Though she conceded that she holds a BDS Degree, she denied that she is in employment at two local dental clinics.

The learned Trial Court noticed the respective pleas of the parties and granted the impugned order. In the course of the impugned order, it was noticed that one of the local dental practitioners (Dr. Som Banerjee of Oral Rehabilitation & Implant Centre, Chandigarh) had issued a certification that the respondent had joined the Centre from 01.01.2006 as a trainee dentist and no salary was being paid to her. It was further held by the learned Trial Court that 12 photographs placed on record by the petitioner-husband only show the respondent entering a dental clinic but those do not prove that she is employed over there.

I have heard learned counsel for the parties and carefully gone through the file.

The learned counsel for the petitioner-husband argued that the respondent having been employed at PGI vide appointment letter Annexure P-9 cannot be held entitled to any amount of maintenance of pendente-lite and litigation expenses because it (appointment) takes the wind out of her sails/plea to the effect that she has no means of sustenance. The learned counsel relied upon a number of judicial pronouncements reported as AIR 1958 Rajasthan 322 (Mukan Kunwar vs. Ajeet Chand), AIR 1974 Rajasthan 93 (Baboo Lal vs. Smt. Prem Lata), 2005 (2) HLR 418 (Rohini Vs. R. Durairaj) and 1992(2) HLR 372 (Satya Pal vs. Smt. Sona Devi) in support of the advocated plea that a wife possessed of sufficient means is not

entitled to any maintenance pendente-lite. I do not feel called upon to deal with those judicial pronouncements inasmuch there can be no dispute with the proposition expounded by those authorities to the effect that a wife possessing adequate resources to maintain herself is not entitled to the grant of maintenance pendente-lite.

However, I do not find any force in the plea on behalf of the petitioner in the peculiar circumstances of the present case. As noticed by the learned Trial Court, there are certifications available on the file to the effect that the respondent-wife is not getting any salary from the private clinic where she was averred to have been employed. No evidence to rebut the validity/authenticity of that certification was adduced before the learned Trial Court.

Insofar as the appointment letter (Annexure P-9) is concerned, its period of currency was one year which is concededly over. There is not even an averment by the petitioner-husband that the period aforementioned had been extended or that the respondent had been appointed to the post aforementioned by any other subsequent appointment letter.

In that view of things, it cannot be said by any stretch of interpretation that the respondent-wife, though holding a BDS Degree, is gainfully employed or that she has sufficient means of sustenance to maintain herself.

The learned Trial Court noticed each and every plea raised by the parties, the documentary material in the context and recorded the impugned finding. I find no justification whatsoever to differ with the learned Trial court in the context of entitlement of the respondent to the award of the litigation expenses and the pendente-lite and also the

quantification thereof. The latter item (quantification) is appropriate in view of the proven financial annual capacity of the petitioner-husband. Income-tax return filed by the petitioner for the assessment year 2003-04 shows that he had himself given his income therein as Rs. 2,10,000/-. For the assessment year 2005-06, he had given his income as Rs. 2 lacs. It is correct that in the income-tax return filed for the year 2006-07, he gave out his income to be Rs. 1,12,000/-. The learned Trial Court correctly noticed that the sudden dilution was not explainable, particularly in view of the fact that the petitioner is proved to have made a deposit of Rs. 70,000/- into his public provident fund during that very period. That fact is evident from a perusal of Annexure R-7, photocopy of a certification dated 01.05.2006 in the context which had been issued by the Punjab National Bank. The averred dilution of income is not explaining. It was for the petitioner-husband to explain it by producing salary certification from the employer which he has not done in this case.

In the light of foregoing discussion, I have not been persuaded to find any fault whatsoever in the appreciation of material obtaining on the file by the learned Trial Court. The line of reasoning adopted by the learned Trial Court is in order and is affirmed hereby.

Dismissed.

September 17, 2007 (S.D. Anand)
vkd Judge

Note : Whether referred to reporter or not: Yes/No.